emergency action under section 305(e) of the Magnuson-Stevens Act.

Subpart D—Management Measures for the Atlantic Sea Scallop Fishery

§ 648.50 Shell-height standard.

(a) *Minimum shell height.* The minimum shell height for in-shell scallops that may be landed, or possessed at or after landing, is 3.5 inches (89 mm). Shell height is a straight line measurement from the hinge to the outermost part of the shell, that is, the edge farthest away from the hinge.

(b) *Compliance and sampling.* Compliance with the minimum shell-height standard will be determined by inspection and enforcement at or after landing, including the time when the scallops are received or possessed by a dealer or person acting in the capacity of a dealer as follows: An authorized officer will take samples of 40 scallops each, at random, from the total amount of scallops in possession. The person in possession of the scallops may request that as many as 10 samples (400 scallops) be examined as a sample group. A sample group fails to comply with the standard if more than 10 percent of all scallops sampled are less than the shell height specified. The total amount of scallops in possession will be deemed in violation of this subpart and subject to forfeiture, if the sample group fails to comply with the standard. All scallops will be subject to inspection and enforcement, in accordance with these compliance and sampling procedures, up to and including the time when a dealer receives or possesses scallops for a commercial purpose.

§ 648.51 Gear and crew restrictions.

(a) *Trawl vessel gear restrictions.* Trawl vessels in possession of more than 40 lb (18.14 kg) of shucked, or 5 bu (176.2 L) of in-shell scallops, trawl vessels fishing for scallops, and trawl vessels issued a limited access scallop permit under § 648.4(a)(2), while fishing under or subject to the DAS allocation program for scallops and authorized to fish with or possess on board trawl nets pursuant to

§ 648.51(f), must comply with the following:

(1) *Maximum sweep.* The trawl sweep of nets in use by or available for immediate use, as specified in paragraph (a)(2)(iii) of this section, shall not exceed 144 ft (43.9 m) as measured by the total length of the footrope that is directly attached to the webbing of the net.

(2) *Net requirements*—(i) *Minimum mesh size.* The mesh size for any scallop trawl net in all areas shall not be smaller than 5.5 inches (13.97 cm).

(ii) *Mesh stowage.* Same as § 648.23(b).

(iii) *Measurement of mesh size.* Mesh size is measured by using a wedge-shaped gauge having a taper of 2 cm in 8 cm and a thickness of 2.3 mm, inserted into the meshes under a pressure or pull of 5 kg. The mesh size is the average of the measurements of any series of 20 consecutive meshes for nets having 75 or more meshes, and 10 consecutive meshes for nets having fewer than 75 meshes. The mesh in the regulated portion of the net will be measured at least five meshes away from the lacings running parallel to the long axis of the net.

(3) *Chafing gear and other gear obstructions*—(i) *Net obstruction or constriction.* A fishing vessel may not use any device or material, including, but not limited to, nets, net strengtheners, ropes, lines, or chafing gear, on the top of a trawl net, except that one splitting strap and one bull rope (if present), consisting of line and rope no more than 3 inches (7.62 cm) in diameter, may be used if such splitting strap and/or bull rope does not constrict in any manner the top of the trawl net. "The top of the trawl net" means the 50 percent of the net that (in a hypothetical situation) would not be in contact with the ocean bottom during a tow if the net were laid flat on the ocean floor. For the purpose of this paragraph (a)(3), head ropes shall not be considered part of the top of the trawl net.

(ii) *Mesh obstruction or constriction.* A fishing vessel may not use any mesh configuration, mesh construction, or other means on or in the top of the net, as defined in paragraph (a)(3)(i) of this section, if it obstructs the meshes of the net in any manner.